IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICITON

WRIT PETITION (L) NO.2347 OF 2006

M/s.Dataline and Research Tech-
nologies India Ltd. & Ors. .. Petitioners.

Versus

The Assistant Director,
Directorate of Enforcement & Ors., .. Respondents.

Mr.Mathews Nedumpara for the petitioners.

Mr.A.S. Rao with Mr.N.D. Sharma for the respondents.

CORAM : H.L. GOKHALE, &
J.P. DEVADHAR, JJ.

DATED : 15TH NOVEMBER, 2006.

**P.C. :**

1. Heard Mr.Nedumpara in support of this petition. Mr.Rao appears for the respondents.

2. Rule. Rule is made returnable forthwith. By consent of both the counsel matter is taken up for final hearing.

3. The first petitioner is a company registered under the Companies Act and petitioner Nos.2 to 7 are its directors. This company was proceeded against by the Directorate of Enforcement for alleged violations of Foreign Exchange Regulation Act, 1973 and an order came to be passed on 7th January, 2004 finding it guilty of the charges that were levelled. A penalty

of Rs.20,26,190/- and Rs.6,61,31,085/- was imposed on the petitioners.

4. It is the case of the petitioners that these proceedings were exparte in asmuch as the office of the petitioners had shifted from the place where it was originally situated in Fort area of Mumbai to the Bandra Kurla Complex. The address was changed with the Registrar of Companies also. Thereafter, a demand notice has been served on 17th April, 2006 followed by another demand notice dated 3rd May, 2006. The submission of Mr.Nedumpara is that since all these proceedings were exparte, the petitioners were denied an opportunity to defend and the order sought to be interfered.

5. Mr.Rao appearing for the respondents does not dispute that the proceedings were conducted exparte. This being the position, the petitioners were denied the minimum opportunity necessary in all such proceedings namely the opportunity of being heard.

6. For this reason alone, the impugned order as well as the demand notices are required to be interfered and set aside. Accordingly, we set aside the impugned order as well as the demand notices.

7. Although this impugned order as well as the

demand notices are set aside, it will be open to the respondents to hear and decide the original proceedings which is hereby being revived. Mr.Nedumpara states that the representative of the petitioners company will appear before the Enforcement Directorate - respondents on 4th December, 2006.

8. The respondents will make available to the petitioners a copy of the Show Cause Notice on the basis of which the proceedings are being initiated. The revived proceedings will be decided only after giving full opportunity to the petitioners to defend the same.

9. Rule is made absolute in terms of this order, with no order as to costs.

10. The writ petition stands disposed of.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)